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7 Sui Juris

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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES AMERICA,
Plaintiff

CASE No. 2:16-cr-00046-GMN-PAL

Vs.

RYAN C BUNDY, Entity created November 21, 1972,
File number 197223595

Defendant.

Judicial Notice of Facts
Jeopardy Attached

I

ryan-c: family of Bundy Directs the Court to Take Judicial Notice of Facts

The Court shall take judicial notice that ryan-c: did not, does not and will not consent to a “mistrial” regarding 2:16-cr-00046-GMN-PAL-02. The prosecution acknowledges they must have consent or they are barred by double jeopardy, see ECF 3081, footnote 1, by Steven W. Myhre, “Where defendants consent to or request a mistrial and manifest necessity justifies the mistrial, the Double Jeopardy Clause does not bar retrial.” See United States v. Bates, 917 F.2d 388, 398 (9th Cir. 1990).

The Court shall take further judicial notice that ryan-c: did attempt to exercise the rights of RYAN C BUNDY by offering an alternative suggestion to the proposed “mistrial” prior to the proceedings concluded at 9:34 a.m., see Reporter’s Transcript of Proceedings page 36 of 36 lines 6 and 8.

Federal Rules of Criminal Procedure Rule 26.3. Mistrial

“Before ordering a mistrial, the court must give each defendant and the government an opportunity to comment on the propriety of the order, to state whether that party consents or objects, and to suggest alternatives”

The Court shall take further judicial notice that Gloria Navarro, representing the Court, did intentionally obstruct ryan-c: attempted to suggest an alternative solution/resolution; the Court should find Gloria M. Navarro to be out of order to conduct the Court in this manner, see Reporter’s Transcript of Proceedings page 36 of 36 line 9.

1 The Court shall take further judicial notice that the Black's Law Dictionary, tenth edition, page 963 defines
2 jeopardy as "Jeopardy attaches in a jury trial when the jury is empaneled, and in a bench trial when the first
3 witness is sworn".

4 The Court shall take further judicial notice that the first jury was empaneled as "Grand Jury" on or about
5 July 29, 2015, as known by the Court and unknown by Me. Thus, jeopardy did attach at that time.
6 Therefore, Double jeopardy attached when the "Petite Jury" was empaneled on November 02, 2017 at 12:06
7 pm.

8 The Court shall take further judicial notice that the Petite Jury was dismissed by Judge Gloria M. Navarro
9 December 20, 2017.

10 The Court shall take further judicial notice that a new trial regarding RYAN C BUNDY is, in fact, triple
11 jeopardy and is causing ryan-c: to further suffer a tort.

12 The Court shall take further judicial notice of:

13 **MCM (2016 Edition) Rule 915. Mistrial**

14 (2) "Further proceedings. A declaration of a mistrial shall not prevent trial by another
15 court-martial on the affected charges and specifications except when the mistrial
16 was declared after jeopardy attached and before findings, and the declaration was:
17 (A) An abuse of discretion and without the consent of the defense; or
18 (B) The direct result of intentional prosecutorial misconduct designed to
necessitate a mistrial."

19 **II**
20 **Points and Authorities**

21 In the case, *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954)¹ the United States of America
22 Supreme Court announced that government officials must follow agency regulations. The Accardi Doctrine
23 is the foundation for the rule of law requiring governmental agencies to observe their rules even when it is
not expedient.

24 The Supreme Court first established the principle that government agencies must follow their own rules in its
25 1932 decision, *Arizona Grocery Co. v. Atchison, Topeka & Santa Fe Railway*². This principle became

26
27 ¹ 347 U.S. 260 (1954).

28 ² 284 U.S. 370 (1932) (barring the Interstate Commerce Commission from ignoring its own order. The court
acknowledged that the Commission could repeal its order and establish a new rule but it could not deviate from its

1 known as the Accardi principle after the Supreme Court vacated a deportation order issued by the Board of
 2 Immigration Appeals in *United States ex rel. Accardi v. Shaughnessy*³. The Supreme Court later reaffirmed
 3 this doctrine in *Service v. Dulles*⁴, *Vitarelli v. Seaton*⁵, *Yellin v. United States*⁶, and *United States v. Nixon*⁷.
 4 In each of these cases, the high court struck down government action that violated existing agency
 5 regulations. It upheld the public's right to have government officials follow agency regulations unless and
 6 until the agency revokes or amends its rules. There is authority for the proposition that this principle is part
 7 of the constitutional guarantee of due process, and authority for the proposition that it is a non-constitutional
 8 principle of administrative law.

9 Once an agency establishes its rules or regulations, it must follow them. The courts do not have
 10 discretion to tolerate the official's departures or deviations from the agency guidelines, and should grant
 11 equitable relief to the "defendant" and enjoin the agency in question from this conduct. The courts do not
 12 have the discretion to try one for allegedly breaking a rule/statute while intentionally ignoring prosecutorial
 13 misconduct by deviations from rules. No honorable, reasonable or impartial judicial officer could, in good
 14 faith, condone this deviation.

15 The agency officials presumably follow the guidelines most of the time. When policies are
 16 followed, they provide procedural protection against potential violations of constitutional and statutory
 17 rights; they can also provide a meaningful check on legal but potentially inappropriate action. Inevitably,
 18 some officials will disregard such rules. It is the court's role to determine where a remedy would be
 19 appropriate and to require the government to follow its procedures. This ensures consistent treatment, and
 20 gives notice to agencies that they are not free to make rules or guidelines and arbitrarily depart from them
 21 with impunity.

22 existing rules.) Cf. *American Farm Lines v Black Ball Freight Serv.*, 397 U.S. 532 (1970) (commission's violation of
 23 its own rules was not prejudicial, and does not require a remedy).

24 ³ 347 U.S. 260 (1954); *see also Bridges v. Wixon*, 326 U.S. 135, 152 (1945) (reversing agency action for violating
 25 agency regulations in improperly admitting evidence; the court held that violating the agency's own regulations denied
 26 the petitioner due process of law).

27 ⁴ 354 U.S. 363 (1957) (agency must follow procedural regulations and grant a hearing before discharging officer).

28 ⁵ 359 U.S. 535 (1959) (agency must follow prescribed procedures in employee discharge).

29 ⁶ 374 U.S. 109 (1963) (congressional committee must follow its own rules and consider citizens request that his
 30 testimony be taken in executive session).

31 ⁷ 418 U.S. 683 (1974) (Special Prosecutor had authority to subpoena Presidential tapes under Justice department
 32 regulations unless or until the Attorney General revokes or amended the regulation).

III Conclusion

The Court shall take further judicial notice that ryan-c: did not, does not and will not consent to a new trial

Executed on January 3, 2018

Credit for Accardi Doctrine to HEINONLINE
Citation: 18 AM. J. CRIM. L. 357 1990-1991

BY:

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CERTIFICATE OF SERVICE

I ryan-c: family of Bundy certify that on _____, a copy of the following document(s) was {served/electronically} filed as follows:

1. _____
2. _____
3. _____
4. _____

Via the CM/ECF system, which will automatically serve a Notice of Electronic Filing and/or by:

by certified U.S. mail, return receipt requested

by U.S. mail placed in Postal Box at:

by personal delivery by {my agent}:

by fax to {fax number} at {time}:

by common-carrier delivery by {identify type of delivery service, e.g., FedEx, UPS}:

by e-mail to {e-mail address} _____ at {time}

by the following agent/assistant for Defendant, RYAN C BUNDY:

ryan-c: family of Bundy
In care of postal address:
Post Office Suite 7447
Bunkerville, Nevada
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Cell Phone: (435) 701-1013

I certify that Maysoun Fletcher, Assistant for **ryan-c: family of Bundy** is a registered CM/ECF user and that service will be accomplished by the CM/ECF system.

/s/ Maysoun Fletcher
Maysoun Fletcher.